

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/30/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATIONAL COALITION ON BLACK CIVIC	:	
PARTICIPATION, et al.	:	
	:	
Plaintiffs,	:	20 Civ. 8668 (VM)
	:	
- against -	:	ORDER
	:	
JACOB WOHL, et al.	:	
	:	
Defendants.	:	
-----X	:	

VICTOR MARRERO, United States District Judge.

On October 30, 2020, the Court held two hearings on the status of Defendants' compliance with its October 28, 2020 Decision and Order ("October 28 Order," Dkt. No. 38). During the second hearing on this issue, the Court directed Defendants to provide it with a status update of Defendants' compliance by 3:00 p.m. In response, Defendants submitted a letter stating that Defendants had retained the services of DialMyCalls, which had completed the process of calling all recipients of the prior robocalls and issuing the message authorized by the Court during the second hearing (the "Curative Message"). (See Dkt. No. 48.) Defendants represent that they are in full compliance with the Court's October 28 Order. (See id.)

The Court finds that Defendants' submission is insufficient to determine their compliance with its October 28 Order. For instance, Defendants' supporting documentation

does not indicate the content of the message transmitted. In addition, although the documentation reflects that calls were placed to 29,117 recipients, it is unclear what group the 29,117 recipients reflects. Previously, Defendants asserted that the robocall message discussed in the October 28 Order (the "Prior Robocall") reached approximately 85,309 numbers, and of that number, 5,812 calls made contact with an individual or voicemail system. (Dkt. No. 43.)

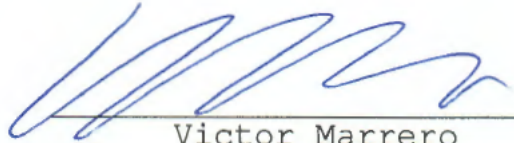
Furthermore, it is not apparent from Defendants' supporting documentation whether Defendants are in compliance with the record-keeping provision of the October 28 Order, which requires Defendants to maintain records "including a copy of the communication, the name and contact information of each person contacted, the content of the message, any consents obtained, and the date and time of the communication." (Dkt. No. 38.)

Accordingly, Defendants are directed to, by no later than Saturday, October 31, 2020 at 3:00 p.m., explain the discrepancy between the 29,117 recipients of today's call and the 85,309 numbers previously called; comply with the record-keeping provision of the October 28 Order; provide documentary evidence sufficient to show the contents of the message transmitted; and provide documentary evidence sufficient to demonstrate that the recipients of today's call

-- that is, the Curative Message -- were the recipients of the Prior Robocall.

SO ORDERED:

Dated: New York, New York
30 October 2020



Victor Marrero
U.S.D.J.